

Members

Rep. Peggy Welch, Chairperson
Rep. William Crawford
Rep. Eric Turner
Sen. Luke Kenley
Sen. John Broden



COMMISSION ON STATE TAX AND FINANCING POLICY

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MEETING MINUTES¹

Meeting Date: July 29, 2008
Meeting Time: 1:00 P.M.
Meeting Place: State House, 200 W. Washington St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Peggy Welch, Chairperson; Rep. William Crawford; Sen. Luke Kenley; Sen. John Broden.

Members Absent: Rep. Eric Turner.

Chairperson Peggy Welch called the meeting to order shortly after 1:00 p.m. Rep. Welch introduced the members of the Commission and reviewed the topics that the Commission will study during the interim as directed by the Legislative Council.

The meeting was devoted to the consideration of the following topics:

- (1) Funding for the Indiana Law Enforcement Academy.
- (2) The impact of the passage of HEA 1001-2008 on fire protection territories.
- (3) Procurement and public works through area educational service centers.

Funding for the Indiana Law Enforcement Academy

Sen. James Arnold introduced Rusty Goodpaster, Executive Director of the Indiana Law

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Enforcement Academy, and Michael Lindsay, Deputy Director of the Indiana Law Enforcement Academy. Sen. Arnold prefaced Mr. Goodpaster's presentation by saying that the Academy has facility and funding needs that should have been addressed long ago. Sen. Arnold characterized the situation facing the Academy as an evolving problem.

Mr. Goodpaster reviewed the history of the Academy's physical plant in Plainfield which was constructed in 1975 and expanded in 1984 and 1993. Mr. Goodpaster informed the Commission that the Academy currently operates on a budget of approximately \$4.6M. Fifty per cent of the budget is derived from dedicated fees (see Exhibit A) and the remainder is appropriated from the State General Fund. Mr. Goodpaster testified that a budget of \$6M is now necessary because the Academy has pressing facility needs and is facing increased costs for ammunition, fuel, utilities, and simulators and other training aids. Mr. Goodpaster stated that the Academy needs more dormitory and classroom space. Mr. Goodpaster added that the Northwest Indiana Law Enforcement Academy (NWILEA) may lose its space on the Indiana University-Northwest campus. Mr. Goodpaster noted that if the NWILEA were unable to find suitable accommodations in Northwest Indiana, absorbing the training now provided at the NWILEA would add to the strain on the Plainfield facilities and require a seven per cent increase in the Plainfield budget.

Rep. Welch asked how other states fund law enforcement academies. Mr. Goodpaster replied that most have been able to maintain funding levels from dedicated court and traffic fees. He added that Kentucky relies in part on fees collected with home owners' insurance policies. A similar proposal failed in Michigan, which then turned to fees directly imposed upon the students training at its academy.

Both Rep. Crawford and Sen. Kenley questioned Sen. Arnold and Mr. Goodpaster about the strategy of coming before the Commission instead of relying solely upon the regular budget process. Sen. Arnold replied that they wanted to bring the Academy's funding problem to light as soon as possible.

Rep. Welch recognized Sen. Frank Mrvan who rose to support Sen. Arnold and the academies. Sen. Mrvan urged his fellow lawmakers to help the academies and called their attention to SB 365 (Exhibit B), which he introduced in the 2008 session of the General Assembly. Sen. Mrvan's bill would have provided additional funding to the academies and other law enforcement training centers through a \$1 transaction fee collected on certain transactions made by the Bureau of Motor Vehicles.

Fire Protection Territories

Legislative Services Agency attorney Ed Gohmann presented a memorandum (Exhibit C) discussing issues that have arisen concerning the property tax levies used to fund fire protection territories. Mr. Gohmann explained that one change made by HEA 1001-2008 was the termination of an exemption from levy limits for fire protection territory property tax levies. The exemption applied to the first three years that property taxes were levied for a territory. Mr. Gohmann reported that questions have been raised concerning what is the maximum amount of property taxes that may be imposed for a fire protection territory in the first year that property taxes are imposed for the territory. Mr. Gohmann also explained that questions have arisen about the status of newly formed fire protection territories and whether they are required to provide their proposed budget, property tax levy, and property tax rate to the Local Government Tax Control Board and the Department of Local Government Finance (DLGF) for review and approval.

Rep. Welch recognized Sen. Joe Zakas who addressed the Commission with concerns about the effect that the removal of the three year exemption from levy limits has had on

the formation of fire protection territories in his district. Sen. Zakas submitted to the Commission a memorandum (Exhibit D) prepared for him by attorney Peter Agostino representing Harris Township in St. Joseph County. Mr. Agostino's memorandum recommends that the General Assembly reverse its decision to remove the exemption for fire protection territories.

Sen. Zakas introduced a pair of fire chiefs from St. Joseph County to discuss their situations in greater detail: Mr. Timm Schabbel, Chief of the Clay Township Fire Department, and Mr. John Vance, Chief of the Harris Township Fire Department. The chiefs reviewed the circumstances that had led the townships to establish paid fire departments and to consider merging operations by having Harris Township join the fire protection territory already in place in Clay Township. The chiefs reported that the plan fell through because they were led to believe (via their communications with the DLGF) that amounts annually borrowed by Harris Township to overcome levy shortfalls for fire protection would not be recognized by the DLGF when determining the maximum levy for the first year of the expanded fire protection territory.

Sen. Kenley acknowledged that technical issues relating to HEA 1001 should be fixed. Sen. Kenley questioned the necessity of restoring the full three year exemption permitted by prior law.

Sen. Broden asked whether the three year exemption from the levy limits had been seen as an incentive to form fire protection territories. Mr. Schabbel replied in the affirmative.

Rep. Welch recognized Rep. Vern Tincher who agreed with Mr. Schabbel that the exemption was a necessary encouragement to the formation of fire protection territories. Rep. Tincher testified that the elimination of the exemption will prevent the Poland Fire Protection Territory from constructing a fire station in the part of the territory that lies in Jackson Township, Owen County. Rep. Tincher urged the General Assembly to restore the three year exemption period or pass legislation to permit one last adjustment to fire protection territory levies before new territories are subjected to the levy limits.

Rep. Welch recognized Mr. James VanGorder, Fire Chief for the Zionsville Fire Protection Territory. Mr. VanGorder described the process that led to the establishment of the territory and asserted that it could not have been accomplished without the availability of the three year exemption from levy limits. Sen. Kenley asked why the exemption period was important. Mr. VanGorder replied that communities that decide to establish a fire protection territory are often driven to the decision by the need to transition from having a volunteer fire department to having a paid fire department. Mr. VanGorder noted that the increased personnel costs in Zionsville's transition totaled \$2,000,000. Mr. VanGorder explained that the territory board was, like many others, reluctant to hit the taxpayers with a large property tax increase in a single year.

Rep. Welch asked whether there are any studies on the efficiency of fire protection districts. Mr. Thomas Hanify, President of the Professional Fire Fighters Union of Indiana, replied that he was not aware of any studies of that nature.

Rep. Welch recognized Mr. Rich Carlucci, Town Manager for Plainfield. Mr. Carlucci provided the Commission with an example of a community that has not been deterred from forming a fire protection territory in the absence of the three year exemption from levy limits for new territories. Mr. Carlucci described the ongoing process that will result in Plainfield's newly formed territory imposing a property tax levy for the first time for property taxes first due and payable in 2009. Mr. Carlucci explained that the start up costs for the territory will be front loaded into the territory's first budget.

Rep. Welch recognized Mr. Jason Spindler who rose to testify about an issue that has arisen with respect to the fire protection territory covering Princeton and Patoka Township in Gibson County. Mr. Spindler presented documents (Exhibit E) related to the formation of the territory. He explained that the problem facing Princeton is that the parties agreed to have Patoka Township serve as the provider unit for the territory. As a result, property taxes previously levied by Princeton for fire protection are no longer counted for the purposes of calculating the city's county economic development income tax (CEDIT) distribution. Mr. Spindler testified that Princeton stands to lose approximately \$160,000 of CEDIT distributions as compared to the amount it received before the territory was formed. Mr. Spindler presented three proposals to enable the city to restore the lost CEDIT money:

- (1) Allow the parties to re-designate Princeton as the provider unit without dissolving the territory.
- (2) Amend the CEDIT distribution law to allow Princeton to attribute the amounts formerly levied for fire protection to its current levy.
- (3) Allow the units within the territory to separately levy property taxes for fire protection.

Rep. Welch recognized Rep. Kreg Battles who praised the work of the Princeton-Patoka Township Fire Protection Territory. Rep. Battles urged his colleagues to consider amending the law to allow Princeton to recover the lost CEDIT distributions. Rep. Battles emphasized that no new CEDIT taxes are being contemplated in Gibson County and that only a redistribution is being requested.

Rep. Welch recognized Mr. Chris Johnston, appearing on behalf of the Office of Management and Budget, and Mr. Timothy Rushenberg, General Counsel for the DLGF. Mr. Rushenberg first addressed the discussion of the issues surrounding the discontinued attempt to add Harris Township to the Clay Township fire protection territory in St. Joseph County. Mr. Rushenberg explained that it had not been the DLGF's intent to exclude the Harris Township loan amounts from the calculation of the levy of an expanded fire protection territory. Mr. Rushenberg apologized for any confusion resulting from the DLGF's communications with the parties.

Mr. Rushenberg then presented a memorandum on the technical issues arising since the passage of HEA 1001-2008 (Exhibit F). At Sen. Kenley's request, Mr. Rushenberg then furnished the Commission with a report detailing the certified levy history and certified appropriation history of the state's fire protection territories (Exhibit G).

Procurement and Public works through Area Educational Service Centers

Rep. Welch recognized Senators Thomas Weatherwax and Phil Boots to begin the Commission's consideration of this topic. Sen. Weatherwax explained that there is a concern that school corporations have utilized area educational service centers to initiate roofing projects in a manner that improperly skirts the competitive bidding requirements imposed upon schools and other local governments by IC 36-1-12. Sen. Weatherwax submitted to the Commission a packet of materials that included legal memoranda from attorneys employed by the Legislative Services Agency, Barnes & Thornburg, Ice Miller, and the Indiana Department of Education on various aspects of the issue (Exhibit H). Sen. Weatherwax explained that much of the controversy turns on whether work that is currently considered a repair and not described as "the construction, reconstruction, alteration, or renovation of a public building" is properly excluded from the definition of a public work for purposes of IC 36-1-12. Sen. Weatherwax then presented language (PD 4017) to the Commission that he had prepared last winter that he suggested would resolve this issue by specifying that the repair of a public building is a public work (Exhibit I). Sen. Weatherwax's draft also would prohibit area educational service centers from accepting

bids or awarding contracts relating to public work projects. Sen. Weatherwax emphasized that the controversy has a very real impact on property taxes. He indicated that he is concerned about protecting taxpayers and preserving the transparency of the bidding requirements of the public works law.

Sen. Boots indicated to the Commission that he intends to remain involved with the issue following Sen. Weatherwax's retirement from the General Assembly.

Rep. Welch recognized Sen. Brandt Hershman who expressed his concern that the language presented by Sen. Weatherwax could tie a school corporation's hands when faced with the need to make minor repairs that could be accomplished in-house. Sen. Weatherwax assured him that school corporations would have plenty of flexibility if his language were enacted because of the high dollar amount that would govern when a school corporation would be exempted from the bidding requirements for repairs of that nature.²

Rep. Welch then recognized Mr. Rob Wynkoop, Deputy Commissioner Procurement, Indiana Department of Administration. Mr. Wynkoop described the basic requirements governing procurement and public works for the executive branch of state government, excluding the Indiana Department of Transportation. Mr. Wynkoop also described for the Commission the Executive Branch's efforts to leverage its purchasing power on behalf of schools and other local governments who are now permitted to utilize Department of Administration procurement contracts for items such as computers.

Rep. Welch adjourned the meeting at approximately 3:30 p.m.

²See IC 36-1-12-3(a) which exempts public works that are estimated to cost less than \$100,000 and can be performed by the workforce of the unit of local government.